IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 18992 of 2007(J)

PETITIONER:

C.D. JOSHY, AGED 46 YEARS,
S/O. DAMODARAN, MANAGING PARTNER, HOTEL CEE DEE REGENCY, ANICODE, CHITTOOR, PALAKKAD.

BY ADV. SMT.P.DEEPTHI
SMT.SONIYA.M

RESPONDENTS:
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1. THE ASST. ENGINEER,
P.W.D. ROAD SECTION, CHITTOOR.

2. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF TRANSPORT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.18992 OF 2007

DATED THIS THE 29th DAY OF JUNE, 2007

JUDGMENT

The petitioner challenges Ext.P6 notice by which the petitioner has been directed to vacate the properties mentioned therein within three days. According to the petitioner, the same has not been preceded by a notice and a hearing as contemplated under the Kerala Land Conservancy Act. The petitioner stoutly denies that the property is Government land. The petitioner would submit that the property belongs absolutely to the petitioner.

2. I have heard the learned Government pleader also. The learned Government pleader could not satisfy me that Ext.P6 has been preceded by a notice and a hearing as required under the Kerala Land Conservancy Act and Rules. Ext.P6 also does not contain any reasons as to why the emergency provisions under the Act is to be invoked. That being so, Ext.P6 is violative of the principles of natural justice. However, in view of the orders I propose to pass I do not think that it is necessary to quash Ext.P6 as such.

2. In the facts and circumstances of the case, the petitioner shall file objections to Ext.P6 before the 1st respondent, who shall

forward the same to the jurisdictional Tahsildar. The Tahsildar shall hear the petitioner, afford an opportunity to adduce evidence and pass a speaking order dealing with the contentions and evidence of the petitioner and communicate that decision to the petitioner. Till communication of such decision, the petitioner shall not be evicted from the property in question.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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